

REMARKS

Examiner Burkhardt is particularly thanked for his thoughtful comments on the claims presented in Applicants' 23 March 2009 response, despite these having been presented after Final Rejection. Support for the further Amendments to the Claims made herein can be found in paragraph 0130 of the Specification and in the claims.

Continuation of 3. NOTE: Claim 10 has been amended to recite a step of "exposing the solid composition to an elutant which selectively elutes the polynucleotide target compound", a limitation not previously recited in the claims. Claim 12 has been amended to include a step of "eluting" and collecting purified samples of a target compound, wherein the claim previously recited only collecting the compound. Finally, new claims 44-49 have been added, and are by definition unexamined. Thus, a new search would have to be performed, and the prior art and specification considered for support of the new limitations.

It is urged that the 23 March 2009 amendments and the further amendments herein now be considered in light of the RCE filed herewith.

Continuation of 11. does NOT place the application in condition for allowance because: Claims 22-25, 29, 30, 32, 35, 36, 41 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Petty (Curr. Protocols Mol. Biol., 1996, of record). This rejection is maintained for reasons made of record in the Office Action dated 2/8/2005, 6/27/2006, 1/22/2009, and for reasons set forth below.

Response to Arguments

Applicant's arguments filed 3/23/2009 have been fully considered but they are not persuasive. Applicants arguments directed to amended claims (i.e. those that recite collecting a target compound substantially free of protein) are moot if reliant upon entry of the amendment because the amendment has not been entered. Furthermore, various claims asserted by applicants to be rejected by Petty (10,44, etc) are not so rejected. See the above rejection and that from the final Office Action dated 1/22/2009. Arguments directed to claims not found in this rejection are moot.

It is respectfully requested that the 23 March 2009 amendment now be entered in light of the RCE filed herewith.

Claims 10-13, 16, 32, 34, 36-40 and 42-44 are rejected under 35 U.S.C. 102(b) as anticipated by Verdine et al (WO 98/00435, of record) or, in the alternative, under 35 U.S.C. 103(a) as obvious over Verdine et al as evidenced by Min et al (Nuc. Acids Res., 1996, pages 38063810).

Response to Arguments

Applicant's arguments filed 3/23/2009 have been fully considered but they are not persuasive. Applicants arguments directed to amended claims are moot for the reason set forth above. Applicants assert that Verdine shows the invention is not

obvious because Verdine had to use histidine tags. This is not persuasive because this is not a purely obviousness rejection: it is a 102 rejection, with use of another citation to render a limitation inherent (i.e. Min et al). Applicants assert that Petty only teaches his-tagged proteins, does not achieve elution or collection of Applicants product, and that Petty's product is protein. This is not persuasive because Petty is not part of this rejection. Applicants assert that Verdine does not collect purified DNA as recited in claim 32. This is false in light of the teachings of Verdine et al, and as outlined in the previous Office Action on page 7 (emphasis added):

"Supernatant containing contaminants such as the DNA polymerase was removed and purified DNA bound to the IMAC column was eluted with imidazole (Example 3, page 11)."

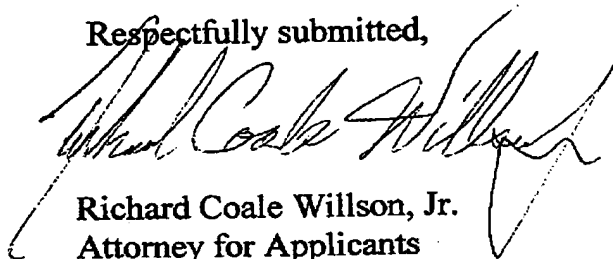
It is respectfully requested that the 23 March amendment now be entered in light of the RCE filed herewith. Additionally Claims 1, 12, 16, 23 and 35-36 have been amended herein to more clearly make it clear that Applicants' process does not employ his-tags or that Applicants' product is free of his-tags and proteins or that their product is free from. polypeptides This "polypeptides" covers freedom from both the his-tags, and from the protein previously presented.

The amendments clarify the claims and point out more clearly what Applicants regard as their invention. No new matter or estoppel is involved.

The RCE fee [37 CFR 1.114; \$405] and any other necessary (small entity) charges can be charged to USPTO Deposit Account 200336 of Technology Licensing Co. LLC. Correspondence may be addressed to Customer No. 26830.

The Examiner is especially invited to telephone Applicants' Attorney if that would expedite prosecution and disposal of this Application.

Respectfully submitted,



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Enclosure: RCE Request Form